

GUIDELINES FOR ACQUISITION OF COMPUTER HARDWARE/SOFTWARE

Pursuant to the Criminal Justice Act, paragraph 3.16, counsel may make an *ex parte* application to the Court, which shall be heard *in camera*, for an Order authorizing the acquisition of computer hardware or software necessary to adequately represent a defendant (Hardware includes computers, laptops, CD drives, printers, scanners, memory boards or related tangible items. Software includes operating and application programs.)

Please follow the guidelines below when making said application.

1. **Prior to making the application**, counsel shall consult with the Defender Services Division of the Administrative Office of the United States Courts (202) 502-3030). The Division will provide technical advice to counsel to ensure the items requested are necessary, appropriate, and compatible with systems in use within the federal defender system. Counsel is required to include, in the application to the Court, the advice and recommendation of the Division .
2. Counsel in multi-defendant cases should confer and agree on their needs. One attorney may then make the application on behalf of all co-defendants. In accordance with subsection (e) of the Criminal Justice Act, paragraph 3.03 of the Guidelines, anticipates an *ex parte* application for “services other than counsel”, and instructs that applications “shall be heard *in camera*, and are not to be revealed without the consent of the defendant(s).
3. CJA Guideline 3.16 authorizes approval for “unusual or extraordinary expenses” when “the circumstances from which the need arose would normally result in an additional charge to a fee paying client over and above that charged for overhead expenses”. The Court has discretion to determine when that condition is met.

Circumstances of extraordinary expense may include, but are not limited to: massive documentary discovery; numerous hours of wiretap tapes; complex financial transactions; and national security concerns requiring disclosure, but no copying of discovery.

In all cases, the decision to approve expenses for hardware or software is a matter for the presiding judge (and if above the case compensation maximum, for the chief judge of the court of appeals, or his designee). The Court may wish to authorize acquisition of each specific item and a total cost ceiling, but allow the Division or the designated purchaser some leeway to negotiate prices for individual items.

4. After the Court issues the Order, a Federal Defender Organization designated by the Defender Services Division, or the Division, will purchase the approved items in accordance with judiciary procurement procedures and charge the costs to the CJA panel attorney line of the appropriation. Payment will be made through the CJA Panel Attorney Payment System by means of a **CJA 21 form** (to which the order should be attached), which has been approved by the presiding judge (and if above the case compensation maximum, by the chief judge of the court of appeals, or his designee). The Federal Defender Organization or the Division will also maintain the tangible items on its inventory of property, noting the items are on loan to appointed counsel.
5. The equipment must be returned within 30 days after final judgment is entered as to a defendant. Counsel should delete all case-related data and software from any hardware, to minimize the risk of inadvertent disclosure of information protected by work product or attorney-client privilege. Software should be returned with all *original* disks and manuals.
6. While it is preferable that counsel retain copies, electronic or otherwise, of the deleted information in the client files, there may be some cases where it is impossible or prohibited by law. For example, the retention of discovery that implicates a national security concern may be barred by federal law.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

Criminal No. _____

-VS-

ORDER AUTHORIZING ACQUISITION
OF COMPUTER HARDWARE/SOFTWARE
UNDER THE CRIMINAL JUSTICE ACT

(Defendants)

The above-named defendant(s), having been found to be eligible for services under the Criminal Justice Act, 18 U.S.C. § 3006A, have submitted an *ex parte* application for the approval of CJA funds to purchase computer hardware and/or software, as authorized by subsection (e) of the Criminal Justice Act.

The Court, after conducting an inquiry, and having reviewed the recommendation of the Defender Services Division of the Administrative Office of the United States Courts, determined that the hardware/software detailed below is/are necessary for an adequate defense and constitute unusual or extraordinary expenses.

The Court, therefore, approves the acquisition of the following items:

- [1]
- [2]
- [3]
- [4]

in the amounts listed for each item, and a total expenditure not to exceed \$ _____. (the sum of all items approved).

IT IS FURTHER ORDERED, that the Federal Defender Organization for the District of New Jersey, as designated by the Defender Services Division, shall acquire the approved items utilizing the Criminal Justice Act appropriation, in conformance with CJA Guideline 3.16; and

IT IS FURTHER ORDERED, that the approved item(s) is/are and shall remain the property of the United States. The item(s) is/are to be used only in the course of the representation of the above-named defendant(s), and counsel shall use due diligence and care to maintain the property in good condition.

Unless otherwise ordered by the Court, within 30 days after final judgment is entered as to a defendant, appointed counsel for that defendant is directed to return all items acquired under authorization of this Order to the Federal Defender Organization designated by the Defender Services Division, for assignment by the Division for any other appropriate use under the Criminal Justice Act.

Counsel for the defendant(s) is/are further instructed to remove and delete all case-related data and software from any hardware before delivering the equipment to the Federal Public Defender Organization. Software should be returned with all original disks and manuals. Counsel should retain copies, electronic or otherwise, of the deleted information for the client's file.

Date

, U.S.D.J.